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92-263

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of Section 8 of
the Cable Television Consumer
Protection and Competition
Act of 1992

Consumer Protection and Customer
Service

TO: The Commission

REPLY COMMENTS OF THE CITY OF PORTLAND, OREGON

The City of Portland submits these reply comments in the above-captioned proceeding.

The City of Portland has reviewed the comments submitted by the National Association of Telecommunications Officers and Advisors, National League of Cities, United States Conference of Mayors, and the National Association of Counties ("Local Governments") submitted in this proceeding. The City of Portland believes that the comments filed by Local Governments accurately reflect the City of Portland's position on the implementation of Section 8 of the Cable Television Consumer Protection and Competition act of 1992 (the "1992 Act"). Accordingly, the City of Portland concurs with the comments filed by Local Governments and respectfully requests the Federal Communications Commission ("Commission" or "FCC") to consider carefully these

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comments.

The City of Portland believes that the Commission should adopt a set of specific standards which will ensure minimum adequate customer service throughout the country. The Commission-established standards should be self-executing and should apply to all cable systems as of the date of adoption of the standards by the FCC, without any further action to be taken by franchising authorities.

The general rule that the Commission-established standards will apply to all cable operators should be subject to three exceptions: (i) where a franchising authority determines to waive one or more of the FCC standards in favor of less stringent standards; (ii) where the franchising authority has more stringent customer service standards already in place; or (iii) where a franchising authority exercises its right to promulgate more stringent standards or standards not addressed by the FCC standards.

Franchising authorities should be primarily responsible for enforcing the Commission-established standards. The Commission, if necessary, could act as a final arbiter of disputes between franchising authorities and cable operators.

The City of Portland believes that the Commission should establish comprehensive consumer protection rules. Customer service was a paramount concern of Congress in the passage of the 1992 Act. The legislative history of the 1992 Act is replete with testimony from cable subscribers, consumer groups and franchising authorities documenting customer service problems -- problems that are evident in both large and small systems.

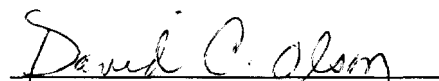
Customer Service Standards made a big difference in Portland, Oregon. The Portland City Council adopted Customer Service Standards in 1990 after

extensive public hearings showed subscribers were experiencing problems with cable operator telephone responsiveness, service and repair appointments, and billings among others. Since that time, the number of complaints has decreased by 25%. Complaints dropped from a total of 16 per thousand cable subscribers before consumer protection rules were adopted to 12 per thousand cable subscribers after the rules became effective. A copy of Portland, Oregon's Ordinance adopting the Customer Service Standards is attached for your information.

The City of Portland urges the Commission not to adopt the NCTA standards. While the NCTA standards may provide a useful starting point in crafting a set of customer service standards, they are lacking in two key respects: they are neither stringent nor specific enough, and they do not address issues and areas that should be addressed, such as credits for a failure by the cable operator to keep a service call and credits for a failure by a cable operator to correct an outage or other reception problem promptly.

The City of Portland believes that the approach proposed by Local Governments, as filed in their comments, will ensure adequate customer service for cable customers in the City of Portland as well as throughout the country, and will not unreasonably burden cable operators.

Respectfully submitted,

A handwritten signature in cursive script, reading "David C. Olson", written over a horizontal line.

David C. Olson, Director
Office of Cable Communications &
Franchise Management

ORDINANCE NO. **163442**

Establish City of Portland cable television consumer protection policy
(Ordinance, amend Code Chapter 3.115)

The City of Portland ordains:

Section 1. The Council finds:

1. The City regulates cable television companies operating in the City pursuant to franchise agreements, City Code, and applicable federal law. Although the City grants non-exclusive franchises to cable television operators, cable companies currently act as a monopoly because there is no competing cable television provider in the cable service areas in the City.
2. The majority of the City's television households receive television services, including community programming, through cable, and cable television has become increasingly dominant in Portlanders' access to news, entertainment, and information.
3. The City's franchise agreements with each cable television company generally provide that the City reserves the power and right to regulate in the public interest the exercise of the privileges permitted by each franchise, and that each franchise is subject to the charter and general ordinance provisions of the City.
4. Applicable federal law, as set forth in the Cable Communications Policy Act of 1984, Sec. 632, provides that a franchising authority may require as part of a franchise provisions for the enforcement of customer service requirements of a cable operator, and provides that nothing in the Act shall be construed to prohibit any franchising authority from enacting or enforcing any consumer protection law.
5. There is presently no consistent set of City standards and policies governing customer service and consumer protection for cable television. Existing standards and policies in the City's cable franchises on customer service and consumer protection are incomplete, inconsistent, or undeveloped. It is important for consistent standards to be established to assist the Cable Communications Regulatory Commission and the Office of Cable Communications and Franchise Management in responding to unresolved consumer and subscriber complaints pertaining to cable television services.

6. The Cable Communications Regulatory Commission has held public hearings, including a citywide live call-in cable television program, to seek public and subscriber input on the need for customer service standards and the nature of the standards to be developed. The Commission has received testimony and comments from the cable television companies operating in the City, and from other jurisdictions including the Multnomah Cable Regulatory Commission, and the Metropolitan Area Communications Commission. The Commission has developed and revised proposed standards in response to comments and input from the cable companies and interested members of the public. Based on the testimony received and on work sessions of the Commission, the Cable Regulatory Commission has recommended that the Council adopt the Cable Television Consumer Protection Policy set forth herein.

NOW, THEREFORE, THE COUNCIL DIRECTS:

- a. Title 3, Administration, Chapter 3.115 Cable Communications Regulatory Commission, is amended by adding the Cable Television Consumer Protection Policy of the City of Portland, as set forth in new Sections 3.115.170 through 3.115.205 as follows:

3.115.170 Cable Television Consumer Protection. The following policies and standards apply to all cable television companies (grantees) which are or may hereafter be subject to the jurisdiction of the City of Portland under their respective franchise agreements, under Chapter 3.114 and 3.115 of the City Code, or under other applicable laws, rules, regulations, or agreements.

3.115.175 Customer Service and telephone responsiveness.

- (1) Grantee offices must be adequately staffed and able to respond to subscribers and the public not less than 50 hours per week, with a minimum of 9 hours per day on weekdays and 5 hours on Saturdays.
- (2) As used herein, "adequately staffed" means toll-free telephone lines are open and customer service representatives are available to respond in at least the following ways:
 - (a) to accept payments;
 - (b) to exchange or accept returned converters or other company equipment;
 - (c) to respond to inquiries; and
 - (d) to schedule and conduct service or repair calls.
- (3) Toll-free telephone lines, either staffed or with answering capability, providing at least emergency referral information, must be operational 24 hours a day, including weekends and holidays.
- (4) Each grantee shall maintain, on average as verifiable by statistical data:
 - (a) Sufficient customer service staff and telephone line capacity to handle normal call volume with a minimum of delay to customers; and
 - (b) At least ninety percent responsiveness during normal call volume, defined as fewer than one customer call in ten will encounter a busy signal or a delay in reaching a customer service representative exceeding one minute in length.

3.115.180 Service and repair calls.

- (1) Requests from subscribers for repair and maintenance service must be acknowledged by a grantee within 24 hours or prior to the end of the next business day, whichever is earlier. Repair and maintenance for service interruptions or other repairs not requiring on-premises work must be completed within 24 hours under normal operating procedures. All other repairs should be completed within 72 hours in normal circumstances. No charge may be made to subscribers for this service, except in cases beyond the reasonable control of the grantee, such as documentable cases of repeated subscriber negligence or abuse of grantee equipment.
- (2) As a normal operating procedure, upon subscriber request each grantee shall provide either a specific appointment time or else a pre-designated block of time (not to exceed four hours) for subscriber service appointments to be scheduled Monday through Saturday in the morning, the afternoon, or after 5:00 p.m (repair only).
- (3) As a normal operating procedure, and with particular regard to the needs of working or mobility-limited customers, upon subscriber request each grantee shall arrange for pickup and/or replacement of converters or other company equipment at the subscriber's address, or else a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

3.115.185 Disconnection

- (1) A grantee may disconnect a subscriber for cause if:
 - (a) at least 30 days have elapsed after the due date for payment of the bill of the affected subscriber; and
 - (b) the grantee has provided at least 10 days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- (2) Regardless of subsection (1) hereof, a grantee may disconnect a subscriber for cause at any time if the grantee in good faith determines that the subscriber has tampered with or abused company equipment, or is or may be engaged unlawfully in theft of cable services.
- (3) A grantee shall promptly disconnect any subscriber who so requests from the grantee's cable system. No period of notice prior to voluntary termination of service may be required of subscribers by any grantee. No charge may be imposed by any grantee for such voluntary disconnection, or for any cable services delivered after the date of the disconnect request. Upon the later of the date of actual disconnection or the return of all company equipment to grantee, the grantee shall within ten working days return to such subscriber the amount of the deposit, if any, collected by grantee from such subscriber, less any undisputed amounts owed to grantee for cable services or charges prior to the date of disconnection.

3.115.190 Credits upon outage.

Except for planned outages where subscribers are provided reasonable notification in advance, upon a subscriber's request a grantee shall provide a pro-rated 24-hour credit to the subscriber's account for any period of four hours or more during which that subscriber experienced an outage or substantial impairment of cable service.

3.115.195 Itemized billing.

Each grantee bill to subscribers must itemize each category of service, equipment, or other applicable fees, and state clearly the charge therefor.

3.115.200 Information to subscribers.

- (1) Upon installing initial service to or reconnecting each customer, and upon request thereafter each grantee must advise the customer, in writing, of:
 - (a) the equipment and services currently available (including parental lock-out devices) and the rates and charges which apply;
 - (b) the amount and criteria for any deposit required by grantee, if applicable, and the manner in which the deposit will be refunded;
 - (c) the grantee's policies and procedures by which complaints or inquiries of any nature will be addressed;
 - (d) the toll-free telephone number and address of the grantee's office to which complaints and inquiries may be reported;
 - (e) the company's practices and procedures for protecting against invasions of subscriber privacy; and
 - (f) the notice and referral information to the City of Portland, as set forth in subsection (2) hereof.
- (2)
 - (a) Each grantee shall semi-annually send written notice to all subscribers that any complaints or inquiries not satisfactorily handled by the company may be referred to the City of Portland Office of Cable Communications and Franchise Management and the Cable Regulatory Commission. Such notification may be included with a billing statement, and shall contain either the printed text specified in subparagraph (b) hereof or an alternate text approved by the Commission.
 - (b) The text of the printed notice shall be as follows, unless otherwise authorized by the Commission:

PLEASE READ THIS

The City of Portland through the citizen Cable Regulatory Commission (CRC), and the Office of Cable Communications and Franchise Management (City Cable Office), is responsible for monitoring the customer service, system performance, and franchise compliance of your cable company. Toward this end, the City and your cable company work continuously to monitor and improve cable TV customer service in your community.

However, at times you may encounter problems with your cable service that you have been unable to resolve with your cable company. The City Cable Office and the CRC are available to help you with unresolved problems. If this is the case, please call the City Cable Office at 796-5385 weekdays (an answering machine takes messages after business hours), or write to the CRC c/o the City Cable Office, 1120 SW Fifth Avenue, #1021, Portland, OR 97204.

However, please contact your cable company FIRST, before calling the City Cable Office about your problem.

Cable Regulatory Commission meetings are generally held the second Tuesday of each month. Please call or write the City Cable Office for more information.

This announcement has been brought to you as a public service of the City of Portland and your cable company.

PLEASE SAVE FOR FUTURE REFERENCE

- (c) Such notice, in large boldface type, shall also be posted in a conspicuous place in grantee offices located within the City where customer service transactions are conducted within the meaning of Section 3.115.175 hereof.
- (3) Each grantee shall provide to its subscribers and the City written notice at least 10 days in advance of any deletions in programming services, increases in any rates, costs, or charges to subscribers, or any channel repositioning within the control of grantee.
- (4) All grantee promotional materials, announcements, and advertising of residential cable services to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all grantee-prepared promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a grantee shall take appropriate steps to ensure that grantee customer service representatives clearly and accurately disclose price terms to potential customers in advance of taking the order.

3.115.205 Nondiscrimination

- (1) No grantee shall unlawfully discriminate against any person in the provision of cable television services on the basis of race, color, religion, national origin, sex, sexual preference, age, disability, income, or the area in which such person lives.
- (2) Each grantee shall use best efforts to assure maximum practical availability of grantee services and facilities to all subscribers, regardless of disability, including the provision of a remote control device to those subscribers who are mobility limited, or where a member of the subscriber's household is mobility limited.
- (3) For hearing impaired customers, each grantee shall provide information concerning the cost and availability of equipment to facilitate the reception of all basic services for the hearing impaired. In addition, each grantee must have TDD/TTY (or equivalent) equipment at the company office, and a publicly listed telephone number for such equipment, that will allow hearing impaired customers to contact the company.

ORDINANCE No.

- (4) Upon request by a subscriber or potential subscriber, each grantee shall make a reasonable effort to provide information required under Section 3.115.195, or otherwise provided in the normal course of business, in both English and the primary language of the requestor.

Passed by the Council, SEP 05 1990

COMMISSIONER LINDBERG
David C. Olson
August 20, 1990

BARBARA CLARK
Auditor of the City of Portland
By

Britta Olson Deputy

EXHIBIT A

Adopted November 13, 1990

RULES APPLICABLE TO ENFORCEMENT OF CABLE CONSUMER PROTECTION STANDARDS PORTLAND CABLE COMMUNICATIONS REGULATORY COMMISSION

- 5.1 Scope of Rules
- 5.2 Definition
- 5.3 Publication and Distribution of Consumer Protection Policy
- 5.4 Staff Monitoring, Informal Compliance Steps, Notification
- 5.5 Commission Procedure in the event of Potential Noncompliance
- 5.6 Scope of Commission action in the event of Noncompliance
- 5.7 Staff Reports to Commission; Commission Report to Council

Any matter placed on the Commission agenda under §5.4(3) hereof for final determination as to noncompliance and appropriate action by the Commission shall be considered in accordance with the Commission's Rules Applicable to Contested Cases.

5.6 Scope of Commission action in the event of Noncompliance

In the event of a Commission determination of noncompliance adverse to the cable operator under §5.5 hereof, the scope of allowable Commission action includes, but is not limited to:

- (1) finding the noncompliant cable operator in violation of the Policy provision and City Code section at issue;
- (2) requiring that the noncompliant operator take specific steps within a specified period of time to comply with the Policy provision or provisions at issue;
- (3) recommending that the City Council impose appropriate sanctions upon the noncompliant operator.

5.7 Staff Reports to Commission; Commission Report to Council

(1) As a supplement to the quarterly complaints report required by §4.2(2) of the Commission's rules, Commission staff shall report to the Commission on activities undertaken in connection with §5.4 hereof, and on the status of compliance with the Policy by cable franchisees.

(2) In the Commission's Annual Report to the City under §3.115.150 of the City Code, the Commission shall report to the Council on the degree of compliance by cable franchisees with the Policy.

5.1 Scope of Rules

These rules apply to Commission enforcement of the City of Portland Cable Television Consumer Protection Policy, City Code Chapter 3.115, §3.115.170 through §3.115.205

5.2 Definition

The term "Policy" means the Cable Television Consumer Protection Policy and/or any provision thereof.

5.3 Publication and Distribution of Consumer Protection Policy

Commission staff on an ongoing basis will take steps to ensure that cable operators, interested subscribers, the media, and members of the general public are informed of the Policy, and have received a copy of the Policy upon request.

5.4 Staff Monitoring, Informal Compliance Steps, Notification

(1) **Monitoring.** Commission staff on an ongoing basis will screen all cable related complaints, communications, reports, and other information relevant to the operations of Grantees ("cable operator") under the Commission's jurisdiction to determine if an issue related to the cable operator's compliance with the Policy has been presented.

(2) **Informal Compliance Steps.** If Commission staff determines that evidence of potential noncompliance with the Policy has been presented, then staff shall contact the relevant cable operator and take necessary steps to determine:

- (a) if the evidence or additional evidence indicates continuous, recurring, or significant noncompliance with any provision of the Policy by the cable operator, and if so
- (b) whether the cable operator is in good faith taking prompt and adequate corrective steps to remedy such noncompliance.

(3) **Formal Notification of Potential Noncompliance.** If Commission staff determines that potential noncompliance with the Policy or any provision thereof is continuous, recurring, or significant, and that prompt and adequate corrective action is not being taken by the cable operator, then the cable operator and the Commission shall be notified that a failure to comply with the Policy may have occurred. In that event staff shall seek written assurances or satisfactory evidence from the cable operator that the affected provision of the Policy shall be complied with not later than 30 days from the date of notification, and the matter shall be placed on the next available Commission agenda for final determination and action.

5.5 Commission Procedure in the event of Potential Noncompliance